Government of Kerala
1976

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXI] Trivandrum, Monday, 22nd March 1976 / 2nd Chaithra 1898 [No. 171

GOVERNMENT OF KERALA

Industries (F) Department

KERALA RAW CASHEWNUTS (RESTRICTION ON MARKETING) ORDER, 1976

ORDER

G.O. (Rt.) 263/76/ID. *Dated, Trivandrum, 22nd March 1976.*

S. R. O. No. 328/76.—In exercise of the powers conferred by Section 3 of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 (3 of 1962), the Government of Kerala hereby make the following Order, namely:—

1. *Short title, extent and commencement.*—(1) This Order may be called the Kerala Raw Cashewnuts (Restriction on Marketing) Order, 1976.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Order, unless the context otherwise requires,—

(a) "agent" means an agent authorised under sub-clause (1) of clause 3;

(b) "cultivator" means a person who actually cultivates any land with cashewnut;

(c) "raw cashewnut" does not include roasted cashewnut;

(d) "State" means the State of Kerala.

3. *Prohibition regarding purchase of raw cashewnuts.*—(1) No person other than an agent of the Government authorised by them in this behalf shall purchase any raw cashewnut produced in the State:

Provided that nothing contained in this sub-clause shall apply to the purchase of raw cashewnuts not exceeding five Kilograms in weight.

(2) The names of all agents authorised under sub-clause (1) shall be published in the Gazette.

4. *Price to be paid by agents.*—(1) When raw cashewnuts are tendered to an agent by or on behalf of a cultivator, such agent shall pay the price thereof calculated at the market rate prevailing in the locality.

(2) For the purposes of sub-clause (1), the Government shall, from time to time, notify the market rates of raw cashewnuts in the different localities in the State, in such manner as they think fit.

(3) No agent shall be entitled to refuse to purchase any raw cashewnut tendered to him by or on behalf of a cultivator.

5. *Powers of entry, seizure, etc.*—Any officer authorised by the Government in this behalf or any police officer not below the rank of Inspector may, with a view to securing compliance with the provisions of this Order or to satisfying himself that the said provisions have been complied with:—

(a) enter and search any premises;

(b) search any person, animal, vessel, vehicle or other conveyance or any receptacle which has been used, or is being used, or is about to be used, for the contravention of this Order;

(c) seize any raw cashewnuts in respect of which he has reason to believe that a contravention of this Order has been, is being, or is about to be, committed.

6. *Distribution by agent to cashew factories.*—All raw cashewnuts purchased by the agents shall be distributed by the Government or the agents to the cashew factories in the State which are eligible for the allocation of imported nuts under the Import Trade Control Policy for the time being in force of the Government of India, on the basis specified in that policy.

By order of the Governor,

SARALA GOPALAN,

Additional Secretary to Government.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport).

Raw cashewnut has already been declared as an essential article in order to effect its equitable distribution to processing factories. This order is intended to regulate the purchase and distribution of rawnuts by Government.

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1976

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EXTRAORDINARY

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Vol. XXI] Trivandrum, Monday, 22nd March 1976 / 2nd Chaithra 1898 [No. 173

GOVERNMENT OF KERALA

Law (Legislation C) Department

NOTIFICATION

No. 2896-Leg. C1/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaitra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1218/MC.

ACT 6 OF 1976

THE UNIVERSITY LAWS (AMENDMENT) ACT, 1976

An Act further to amend the Kerala University Act, 1974 *and the Calicut University Act,* 1975:

Preamble.—WHEREAS it is expedient further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975, for the purposes hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the University Laws (Amendment) Act, 1976.

2. *Amendment of Act* 17 *of* 1974.—In section 27 of the Kerala University Act, 1974 (17 of 1974),—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

> "(1) There shall be a Dean of each faculty, who shall be nominated by the Chancellor in consultation with the Vice-Chancellor.";

(b) in sub-section (3), for the word "re-election", the word "re-nomination" shall be substituted.

3. *Amendment of Act* 5 *of* 1975.—In section 27 of the Calicut University Act, 1975 (5 of 1975),—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

> "(1) There shall be a Dean of each faculty, who shall be nominated by the Chancellor in consultation with the Vice-Chancellor.";

(b) in sub-section (3), for the word "re-election", the word "re-nomination" shall be substituted.

4. *Repeal and saving.*—(1) The University Laws (Amendment) Ordinance, 1976 (3 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under tbe Kerala University Act, 1974 (17 of 1974) or the Calicut University Act, 1975 (5 of 1975), as amended by the said Ordinance, shall be deemed to have been done or taken under the Kerala University Act, 1974 or the Calicut University Act, 1975, as the case may be, as amended by this Act, as if this Act had commenced on the 3rd day of February, 1976.

Government of Kerala
1976

Reg. No. KL/TV/12

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Vol. XXI] Trivandrum, Monday, 22nd March 1976 / 2nd Chaithra 1898 [No. 181

GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 3018-Leg (A) 2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaithra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,

K. VISWANATHAN NAIR,

Additional Law Secretary

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1226/MC.

ACT 14 OF 1976

THE KERALA TAX ON EMPLOYMENT ACT, 1976

An Act to provide for the levy of a tax on employment.

Preamble.—WHEREAS it is expedient to provide for the levy of a tax on employment;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Tax on Employment Act, 1976.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appellate authority" means an appellate authority appointed under section 3;

(b) the expressions "appoint", "appointment", "lodging house", "residence" and "reside" shall have the meanings respectively assigned to them in the Kerala Municipalities Act, 1960 (14 of 1961);

(c) "assessee" means a person by whom the tax on employment or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the tax on employment payable by him;

(d) "assessing authority" means the assessing authority appointed under section 3;

(e) "company" means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956), and includes a foreign company within the meaning of section 591 of that Act and a co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force, whether its principal place of business is situated in the State or not;

(f) "employment" includes self-employment;

(g) "local authority" means a municipal corporation or a municipal council or a township committee or a panchayat;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "State" means the State of Kerala;

(j) the expression "transacts business" shall be deemed to include the doing of acts of business of whatever nature, whether isolated or not, such as soliciting, obtaining or transmitting orders or buying, making, manufacturing, exporting, importing, recovering, transmitting or otherwise dealing with goods;

(k) "year" means the financial year.

3. *Authorities.*—(1) The Government may, by notification in the Gazette, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(3) All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board of Revenue:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the appellate authority in the exercise of its appellate functions.

4. *Charge of tax.*—(1) Subject to the other provisions contained in this Act, there shall be charged on every person who exercises a profession, art or calling or transacts business or holds any appointment, public or private, within the State, a half-yearly tax (hereinafter referred to as tax on employment) at the rate specified in the Schedule.

Explanation.—A person shall be deemed to have exercised a profession, art or calling or held an appointment within the State, if that person has an office or place of employment within the State.

(2) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax on employment.

(3) Where, for the purpose of transacting business within the State, a person has an office or has an agent or firm to represent him, such person shall be deemed to transact business within the State, whether or not such office, agent or firm has power to make binding contracts on behalf of such person, and the person in charge of such office or the agent or firm, as the case may be, shall be liable to the tax payable by the first mentioned person.

(4) A person otherwise liable to the tax on employment shall not cease to be liable to that tax by reason only of his head office or the place from which his business is controlled being situated outside the State or by reason only of the fact that his transactions are closed outside the State.

Explanation.—For the purposes of this section, "aggregate income" shall not include overtime wages or local allowances or allowances for house rent, carriage hire or travelling expenses or pension.

5. *Requisition on employers or their representatives to furnish list.*—The assessing authority may by notice require any employer or the head or secretary or manager of any public or private office, lodging house or club or a firm or company—

(a) to furnish, within a specified time, a list in writing of the names of all persons employed by such employer or by such office, lodging house, club, firm or company as officers, servants, dubashes, agents, suppliers or contractors, with a statement of the salary or income of such employed persons; and

(b) to furnish particulars in regard to any person of whom such employer, or head, secretary or manager, as the case may be, is the agent.

6. *Returns.*—(1) If in the opinion of the assessing authority the tax on employment is or will be due for any half-year from any person other than a person in respect of whom the assessing authority obtains to his satisfaction particulars of income under section 5, it shall serve a notice on such person either in that half-year or in the succeeding half-year requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return showing the income on the basis of which, according to such person, he is liable to be assessed to the tax on employment for the half-year in question.

(2) On receipt of a notice under sub-section (1), the person shall submit a return showing the income derived by him during the half-year for which the tax on employment is claimed or during the previous half-year and may produce any evidence on which such person may rely in support of the return made.

7. *Return after due date and amendment of return.*—If any person has not furnished a return within the time specified in a notice under sub-section (1) of section 6 or having furnished a return under that section discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

8. *Assessment.*—(1) If a list with the statement as required by section 5 or a return as required by sub-section (1) of section 6 is furnished and the assessing authority is satisfied that it is correct and complete, it shall levy the tax on employment from the person liable to be assessed on the basis of such statement or return.

Explanation.—If a person produces the notice of demand of income-tax served on him under the Income-tax Act, 1961 (Central Act 43 of 1961), for the year comprising the half-year in question, the assessing authority shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which the tax on employment is leviable under this Act, as the income of the said sources for the purpose of levying the tax on employment.

(2) If the assessing authority is not so satisfied, it shall serve a notice on the person concerned, requiring him either to attend in person at its office on a date to be specified in the notice or to produce or cause to be produced on that date evidence on which he may rely in support of his return.

(3) The assessing authority, after hearing such evidence as the person may produce and such other evidence as it may require on any specified points, shall, by order in writing, assign to the person the class in the scale appropriate to the half-yearly income of such person as estimated by it.

(4) If any person fails to make a return in response to any notice under sub-section (1) of section 6 or fails to comply with the terms of any notice issued under sub-section (2) of this section, the assessing authority shall, by order in writing, assign to the person concerned the class in the scale appropriate to the half-yearly income of such person as estimated by it.

(5) The assessing authority may, when classifying any person under sub-section (3) or sub-section (4), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid by such persons.

(6) The assessing authority shall not be entitled to call for the accounts of any person.

9. *Power to assess in case of escape from assessment.*—If for any reason any person liable to pay the tax on employment has escaped assessment in any half-year, the assessing authority may, at any time within three years from the date on which such person should have been assessed, serve on such person a notice assessing him to such tax and demanding payment thereof within thirty days from the date of such service, and the provisions of this Act shall, so far as may be, apply as if the assessment was made in the half-year to which such tax relates.

10. *Notice of demand.*—When any tax on employment is due in consequence of any order passed under this Act, the assessing authority shall serve upon the assessee or other person liable to pay such tax a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be paid.

11. *Recovery of tax.*—Any amount specified as payable in a notice of demand under section 10 shall be paid within the time, at the place and to the person mentioned in the notice, or if no time is so mentioned, then on or before the 1st day of the second month following the day of service of the notice, and any assessee failing so to pay shall be deemed to be in default.

12. *Mode of recovery.*—Without prejudice to any other mode of recovery, arrears of the tax on employment may be recovered under the provisions of the Revenue Recovery Act for the time being in force as if it were an arrear of public revenue due on land.

13. *Appeals.*—(1) Any person objecting to the amount of the tax on employment specified in the notice of demand served under section 10 or denying his liability to be assessed under this Act or objecting to any order of the assessing authority under this Act, may appeal to the appellate authority against the assessment or against such order:

Provided that no such appeal shall lie unless the tax on employment has been paid.

(2) An appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appeal shall be presented within a period of sixty days from the date of service of the notice of demand relating to the assessment or the date of service of the order, as the case may be, but the appellate authority may admit an appeal presented after the expiration of the said period, if it is satisfied that the appellant had sufficient cause for not presenting it within the said period:

Provided, however, that no such appeal shall be admitted after a period of six months from the date of service of the notice of demand relating to the assessment or the date of service of the order, as the case may be.

(4) The appellate authority shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing and make or cause to be made such further inquiry as it thinks fit.

(5) At the hearing of the appeal, the assessing authority shall also have a right to be heard.

(6) In disposing of an appeal, the appellate authority may,—

(a) in the case of an order of assessment,—

(i) confirm, reduce, enhance or annul the assessment; or

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed;

(b) in the case of any other order, confirm, cancel or vary such order

(7) The appellate authority shall, on the conclusion of the appeal, communicate the orders passed by it to the appellant and the assessing authority.

(8) The orders passed by the appellate authority shall, subject to the provisions of section 15, be final and shall not be liable to be questioned in a court of law.

14. *Reference to District Court.*—(1) The appellate authority may, if it is satisfied either *suo motu* or on application by any party to an appeal under section 13 that the decision on the appeal involves a question of law, draw up a statement of the case and refer it to the District Court.

(2) If the District Court is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the question raised

thereby, the court may refer the case back to the appellate authority to make such additions thereto or alterations therein as the court may direct in that behalf.

(3) The District Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the court to the appellate authority which shall pass orders on the appeal in conformity with such judgment.

(4) For the purposes of this section, "District Court" means the District Court having jurisdiction over the area in which the assessee exercises his profession, art or calling or transacts business or holds appointment.

15. *Powers of revision of the District Collector.*—The District Collector may at any time call for and examine the record of any proceeding pending before or disposed of by the appellate authority or the assessing authority and may pass such order in reference thereto as he thinks fit:

Provided that no such order shall be passed under this section without notice to the party who may be affected by the order:

Provided further that no order passed on the basis of a reference under section 14 to the extent covered by the answer to such reference shall be subject to revision by the District Collector.

16. *Rectification of mistakes.*—(1) The appellate authority or the revisional authority may at any time within three years from the date of an order passed by it on appeal or revision, as the case may be, and the assessing authority may at any time within three years from the date of any assessment or order passed by it, of its own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or order, as the case may be, and shall, within the like period, rectify any such mistake which has been brought to its notice by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing an assessment or reducing a refund unless the assessee has been given a reasonable opportunity of being heard in the matter.

(2) Where any such rectification has the effect of reducing an assessment, the assessing authority shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing an assessment or reducing a refund, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable; and such notice of demand shall be deemed to be issued under section 10 and the provisions of this Act shall apply accordingly.

17. *Power to take evidence on oath, etc.*—The appellate authority, the assessing authority and the revisional authority shall, for the purposes of this Act, have the same powers as are vested in a civil court under the

Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses.

18. *Refunds.*—(1) If any person satisfies the assessing authority that the amount of the tax on employment paid by him exceeds the amount with which such person is properly assessable under this Act, he shall be entitled to a refund of such excess.

(2) The appellate authority in the exercise of its appellate powers or the revisional authority in the exercise of its revisional powers, if satisfied to the like effect, shall cause a refund to be made by the assessing authority of any amount found to have been wrongly paid or paid in excess.

19. *Limitation of claims for refund.*—No claim to any refund of the tax on employment under section 18 shall be admitted unless it is made within three years from the date of the order of assessment or, where an appeal has been preferred or where there has been a revision, within three years from the order in appeal or revision, as the case may be.

20. *Prosecutions.*—(1) If any person fails without reasonable cause—

(a) to furnish within the specified time a list and statement or particulars which such person is bound to furnish to the assessing authority under section 5; or

(b) to furnish a return on or before the date specified in any notice under sub-section (1) of section 6,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) A person shall not be proceeded against for an offence under this section except at the instance of the assessing authority.

(3) The District Collector may, either before or after the institution of proceedings, compound any such offence.

Explanation.—For the purposes of this section, "Magistrate" means a judicial Magistrate of the First Class or a Judicial Magistrate of the Second Class specially empowered by the Government to try offences under this Act.

21. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the

time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

22. *Manner of service of notice.*—(1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(2) Any such notice or requisition may be addressed,—

(a) in the case of a firm or a Hindu undivided family or an Aliyasanthana family or branch or a Marumakkathayam tarwad or tavazhi or a family to which the provisions of the Kerala Namboodiri Act, 1958, apply, to any member of the firm or to the Manager, Yajaman or Karanavan, as the case may be, or any adult member of the family, branch, tarwad or tavazhi;

(b) in the case of a local authority or company, to the principal officer thereof;

(c) in the case of any other association or body of individuals, to the principal officer or any member thereof;

(d) in the case of any other person (not being an individual), to the person who manages or controls his affairs.

23. *Liability of agents of companies, firms, associations, etc., to tax on employment.*—The tax on employment leviable from a company, firm, association, Hindu undivided family, Aliyasanthana family or branch, Marumakkathayam tarwad or tavazhi or a family to which the provisions of the Kerala Namboodiri Act, 1958, apply, may be levied from the agent of the company, firm or association or the Manager, Yajaman or Karanavan of the family, branch, tarwad or tavazhi, as the case may be.

24. *Statements, returns, etc., to be confidential.*—All statements made, returns furnished or accounts or documents produced in connection with the assessment of the tax on employment under this Act shall be treated as confidential and shall not be granted to the public.

25. *Computation of periods of limitation.*—In computing the period of limitation prescribed for an appeal under this Act, the time required for obtaining a copy of the order complained of shall be excluded.

26. *Bar of jurisdiction.*—No suit shall lie in any civil court to set aside or modify any assessment made under this Act and no prosecution, suit or other legal proceeding shall lie against the Government or any authority or officer for anything in good faith done or intended to be done under this Act.

27. *Power of assessing authority, etc., to call for information from local authorities.*—The assessing authority or the appellate authority or the District Court or the revisional authority may, for the purposes of this Act, call for any information regarding an assessee from the local authority to which that assessee is liable to pay the profession tax payable under the law governing that local authority, and such local authority shall be bound to furnish the information.

28. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

29. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure for the assessment, levy and collection of the tax on employment;

(b) the form of the notice of demand mentioned in section 10;

(c) the mode and manner of payment of the tax on employment;

(d) the powers and duties of authorities and officers under this Act;

(e) the conditions of service of the assessing authorities and appellate authorities;

(f) the form in which appeals under this Act shall be presented and the manner in which they shall be verified;

(g) the manner in which and the authority to which applications for refund shall be made and the procedure to be followed in respect of such applications; and

(h) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. *Establishment of Housing Fund and its utilisation.*—(1) On the commencement of this Act, there shall be established a fund to be called the Kerala State Poor Housing Fund (hereinafter in this section referred to as 'the Housing Fund').

(2) The proceeds of the tax on employment levied and collected under this Act, together with the fines, interest and fees recovered thereunder, shall first be credited to the Consolidated Fund of the State, and, after deducting the expenses of collection and recovery as determined by the Government, the remaining amount shall, under appropriation duly made by law in this behalf, be entered into, and transferred to, the Housing Fund.

(3) Any amount transferred to the Housing Fund shall be charged on the Consolidated Fund of the State.

(4) No sum shall be paid or applied from and out of the Housing Fund except in the manner and for the purpose provided in sub-sections (5) and (6).

(5) The amount standing to the credit of the Housing Fund shall be expended in such manner and subject to such conditions as may be prescribed for the purpose of providing house sites for landless poor persons.

Explanation.—For the purposes of this sub-section, "landless poor person" means a person who does not hold any land which is fit for construction of a dwelling house, either as owner or as tenant having fixity of tenure, and whose annual income is not more than six hundred rupees.

(6) The Housing Fund shall be held and administered on behalf of the Government by an officer not below the rank of Secretary to the Government, subject to such general or special directions as may be given by the Government from time to time.

31. *Repeal.*—The Kerala Tax on Employment Ordinance, 1975 (16 of 1975), is hereby repealed.

THE SCHEDULE

(*See* section 4)

Rates of tax on employment

Class	*Half-yearly income*	*Rs.*
I	Not more than Rs. 1,800	Nil.
II	More than Rs. 1,800 but not more than Rs. 3,000	6.00
III	More than Rs. 3,000 but not more than Rs. 4,800	18.00
IV	More than Rs. 4,800 but not more than Rs. 6,000	37.50
V	More than Rs. 6,000 but not more than Rs. 9,000	50.00
VI	More than Rs. 9,000 but not more than Rs. 12,000	75.00
VII	More than Rs. 12,000 but not more than Rs. 15,000	100.00
VIII	More than Rs. 15,000	125.00

Government of Kerala
1976

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PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation C) Department

NOTIFICATION

No. 1910-Leg. C2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaitra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.C.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1219/MC.

ACT 7 OF 1975

THE KERALA MUNICIPAL CORPORATIONS (SECOND AMENDMENT) ACT, 1976

An Act further to amend the Kerala Municipal Corporations Act, 1961.

Preamble.—WHEREAS it is expedient further to amend the Kerala Municipal Corporations Act, 1961, for the purpose hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Municipal Corporations (Second Amendment) Act, 1976.

2. *Amendment of section 43A.*—In the proviso to sub-section (1) of section 43A of the Kerala Municipal Corporations Act, 1961 (30 of 1961) (hereinafter referred to as the principal Act), for the words "one year", the words "two years" shall be substituted.

3. *Repeal and saving.*—(1) The Kerala Municipal Corporations (Third Amendment) Ordinance, 1975 (15 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 3rd day of November, 1975.

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXI] Trivandrum, Monday, 22nd March 1976 / 2nd Chaithra 1898 [No. 175

GOVERNMENT OF KERALA

Law (Legislation C) Department

NOTIFICATION

No. 3110-Leg. C2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaitra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,

K. VISWANATHAN NAIR,

Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1220/MC.

ACT 8 OF 1976

THE TRIVANDRUM MUNICIPAL CORPORATION (DISSOLUTION) ACT, 1976

An Act to provide for the dissolution of the Corporation of the City of Trivandrum.

Preamble.—WHEREAS it is considered necessary in the interest of the municipal government of the City of Trivandrum and in the public interest to dissolve the council and to entrust the powers, duties and functions of the council temporarily to a person or persons appointed by the Government in that behalf;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Trivandrum Municipal Corporation (Dissolution) Act, 1976.

(2) It shall be deemed to have come into force on the 8th day of December, 1975.

2. *Definitions.*—In this Act,—

(a) "Corporation" and "council" mean the Corporation of the City of Trivandrum;

(b) "Mayor" and "Deputy Mayor" mean the Mayor and Deputy Mayor of the Corporation.

3. *Dissolution of council.*—The council shall be deemed to have stood dissolved on and from the 8th day of December, 1975.

4. *Consequences of dissolution.*—On the dissolution of the council under section 3, all the councillors of the Corporation including the Mayor and the Deputy Mayor shall be deemed to have vacated their offices.

5. *Functions of council, etc., to be exercised by person or persons appointed by Government.*—(1) All or any of the functions of the council and of the Mayor, the Deputy Mayor and of the standing committees and other committees of the Corporation may, during the interval between the dissolution of the council under section 3 and the reconstitution of the council in pursuance of sub-section (1) of section 6, be exercised and performed, as far as may be and

to such extent as the Government may determine, by such person or persons as the Government may appoint in that behalf, and any such person may, if the Government so direct, receive payment for his services from the Corporation fund.

(2) The Government may determine the relationship of the person or persons appointed under sub-section (1) with the Government.

6. *Reconstitution of council.*—(1) The council shall be reconstituted in accordance with the provisions of the Kerala Municipal Corporations Act, 1961 (30 of 1961), on the 1st day of November, 1976.

(2) The term of office of the councillors of the reconstituted council shall expire at noon on the 1st day of November, 1981.

7. *Assets and liabilities of council.*—The Government, until the date of reconstitution of the council in pursuance of sub-section (1) of section 6, and the reconstituted council thereafter, shall be entitled to all the assets and be subject to all the liabilities of the council as on the date of the dissolution and on the date of the reconstitution respectively.

8. *Repeal and saving.*—(1) The Trivandrum Municipal Corporation (Dissolution) Ordinance, 1975 (19 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Government of Kerala
1976

Reg. No. KL/TV/13

KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation C) Department

NOTIFICATION

No. 2831/Leg. C2/76/Law. *Dated, Trivandrum, 22nd March, 1976*
2nd Chaithra, 1898.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1221/MC.

ACT 9 OF 1976

THE KERALA MUNICIPAL COUNCILS (EXTENSION OF TERM OF OFFICE OF COUNCILLORS) ACT, 1976

An Act to provide for the further extension of the term of office of the councillors of municipalities other than the Punalur, Chalakudy, Tirur and Malappuram Municipalities.

Preamble.—WHEREAS it is expedient to provide for the further extension of the term of office of the councillors of municipalities other than the Punalur, Chalakudy, Tirur and Malappuram Municipalities;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipal Councils (Extension of Term of Office of Councillors) Act, 1976.

(2) It shall be deemed to have come into force on the 31st day of December, 1975.

2. *Extension of term of office of municipal councillors.*—Notwithstanding anything contained in the Kerala Municipalities Act, 1960 (14 of 1961), the term of office of the councillors of all the municipalities constituted under the said Act, other than the Punalur, Chalakudy, Tirur and Malappuram Municipalities, which expires at noon on the 31st day of December, 1975, shall extend upto noon on the 31st day of December, 1976.

3. *Repeal and saving.*—(1) The Kerala Municipal Councils (Extension of Term of Office of Councillors) Ordinance, 1975 (18 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Government of Kerala
1976

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KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation B) Department
NOTIFICATION

No. 1933-Leg. B1/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaithra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976.

33/1222/MC.

ACT 10 OF 1976

THE PRISONS LAWS (AMENDMENT) ACT, 1976

An Act to amend the Prisons Act, 1894, in its application to the State of Kerala, and the Travancore-Cochin Prisons Act, 1950.

Preamble.—WHEREAS it is expedient to amend the Prisons Act, 1894; in its application to the State of Kerala, and the Travancore-Cochin Prisons Act, 1950;

Be it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Prisons Laws (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 10th day of October, 1972.

2. *Amendment of Central Act 9 of 1894.*—In section 59 of the Prisons Act, 1894 (Central Act 9 of 1894), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956), after the words "The State Government may make rules consistent with this Act", the words "either prospectively or retrospectively" shall be inserted.

3. *Amendment of Travancore-Cochin Act, XVIII of 1950.*—In section 59 of the Travancore-Cochin Prisons Act, 1950 (XVIII of 1950), after the words "Government may make rules consistent with this Act", the words "either prospectively or retrospectively" shall be inserted.

4. *Validation.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, the amendment purporting to have been made in rule 67 of the Kerala Prisons Rules, 1958, with retrospective effect from the 11th day of December, 1959, by notification G. O. (MS) No. 153/72/Home dated the 10th October, 1972, published as S. R. O. No. 536/72 in the Kerala Gazette No. 42 dated the 24th October, 1972, shall be deemed to have been made under section 59 of the Prisons Act, 1894 (Central Act 9 of 1894) and section 59 of the Travancore-Cochin Prisons Act, 1950 (XVIII of 1950), as amended by this Act, and accordingly, no appointment or promotion to the grade of Jailor, Deputy Jailor or Assistant Jailor in the Jails Department of the Government, of any person who had not passed the Jail Officers'

Test before such appointment or promotion, made or purporting to have been made on or after the 11th day of December, 1959 and before the date of publication of this Act in the Gazette, shall be deemed to be invalid or ever to have been invalid merely on the ground that such person had not passed the said test before such appointment or promotion as required by rule 67 of the Kerala Prisons Rules as originally made, and no such appointment or promotion shall be called in question in any court on the said ground.

5. *Repeal and saving.*—(1) The Kerala Prisons Laws (Amendment) Ordinance, 1975 (14 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Prisons Act, 1894 and the Travancore-Cochin Prisons Act, 1950, as amended by the said Ordinance, shall be deemed to have been done or taken under the said Acts as amended by this Act.

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Government of Kerala
1976

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KERALA GAZETTE

EXTRAORDINARY

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Vol. XXI] Trivandrum, Monday, 22nd March 1976 / 2nd Chaithra 1898 [No. 179

GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 2809-Leg (A) 2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaithra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1224/MC.

ACT 12 OF 1976

THE KERALA GENERAL SALES TAX (SECOND AMENDMENT) ACT, 1976

An Act, further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala General Sales Tax (Second Amendment) Act, 1976.

2. *Amendment of section 3.*—In section 3 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Board of Revenue shall have superintendence over all officers and persons employed in the execution of this Act and the Board of Revenue may—

(a) call for returns from such officers and persons;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such officers and persons;

(c) issue such orders, instructions and directions to such officers and persons as it may deem fit, for the proper administration of this Act.".

3. *Amendment of section 18.*—In section 18 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The tax for each year payable under any of the provisions of this Act may be assessed and levied in advance during the year and for that purpose a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year or such periodical returns of the actual turnover as may be prescribed.

(1A) The assessing authority may determine the amount of tax payable in respect of any period under sub-section (1) and on such assessment the dealer shall pay the sum demanded in monthly or other prescribed instalments within such time as may be fixed by such authority.".

4. *Amendment of section 19.*—In sub-section (2) of section 19 of the principal Act,—

(a) for the words "a penalty not exceeding one and a half times the tax so assessed", the words, figures and letter "a penalty as provided in section 45 A" shall be substituted;

(b) in the proviso, for the words "penalty under this sub-section", the words "such penalty" shall be substituted;

(c) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proving that the escape from assessment was not due to wilful nondisclosure of assessable turnover by the dealer shall be on the dealer.".

5. *Amendment of section 23.*—In sub-section (3) of section 23 of the principal Act,—

(i) in the opening paragraph, for the words "by way of penalty", the words "by way of penal interest" shall be substituted;

(ii) in clause (a), for the words "half percent", the words "one percent" shall be substituted;

(iii) in clause (b), for the words "one percent", the words "two percent" shall be substituted.

6. *Amendment of section 28.*—In section 28 of the principal Act,—

(a) for the proviso to sub-section (3), the following proviso shall be substituted, namely:—

"Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into or searched unless such officer is specially authorised in writing by the Board of Revenue to search that accommodation.";

(b) in sub-section (7),—

(i) in clause (b), for the words "a warrant issued by a Magistrate of the first class having jurisdiction over the area in which the box or receptacle or godown or building is kept or situate", the words "an authorisation in writing by the Board of Revenue" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) the power to search any person who has got out of, or is about to get into, or is in, any place referred to in clause (a) or clause (b) of sub-section (3) or any vessel or vehicle of any dealer, if the officer has reasons to suspect that such person has secreted about his person any goods or any accounts, registers, records or other documents.";

(c) sub-section (9) shall be omitted.

7. *Insertion of new section 45 A.*—In Chapter VIII of the principal before section 46, the following section shall be inserted, namely:—

"45 A. *Imposition of penalty by officers and authorities.*—(1) If assessing authority or the Appellate Assistant Commissioner is satisfied any person,—

(a) being a person required to register himself as a dealer u this Act, did not get himself registered; or

(b) has failed to keep true and complete accounts; or

(c) has failed to submit any return as required by the provisio this Act or the rules made thereunder; or

(d) has submitted an untrue or incorrect return; or

(e) has failed to comply with all or any of the terms of any notic summons issued to him by or under the provisions of this or the rules made thereunder; or

(f) after purchasing any goods in respect of which he has ma declaration under the proviso to sub-section (3) of sectio has failed to make use of the goods for the declared purpose

(g) has acted in contravention of any of the provisions of this or any rule made thereunder, for the contravention of w. no express provision for payment of penalty or for punishn is made by this Act,

such authority or officer may direct that such person shall pay, by wa penalty, an amount of fifty rupees or twice the amount of sales tax or o amount evaded or sought to be evaded, whichever is higher.

Explanation.—The burden of proving that any person is not liable to penalty under this section shall be on such person.

(2) No order under sub-section (1) shall be passed unless the per on whom the penalty is proposed to be imposed is given an opportunit being heard in the matter.

(3) The Deputy Commissioner may, on application by any per on whom penalty is imposed under sub-section (1), for reasons to be recor in writing, reduce or waive such penalty.

(4) An order of the Deputy Commissioner under sub-section (3) sh subject to the provisions of sub-section (5), be final.

(5) The Board of Revenue may, either *suo motu* or on applicati call for and examine the record of any order passed under sub-section or sub-section (3) and make such order as it thinks fit:

Provided that no order enhancing a penalty or cancelling the waive a penalty shall be passed unless the person affected thereby is given opportunity of being heard in the matter.

(6) An order of the Board of Revenue under sub-section (5) sl be final.".

8. *Amendment of section* 47.—In section 47 of the principal Act, sub-section (2) shall be omitted.

9. *Insertion of new sections 55 A and 55 B.*—After section 55 of the principal Act, the following sections shall be inserted, namely:—

"55 A. *Rounding off of turnover, tax, etc.*—(1) The amount of taxable turnover computed in accordance with the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten; then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the taxable turnover of the dealer for the purposes of this Act.

(2) The amount of tax or other amount due under this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

55 B. *Service of notice.*—Any notice required to be served on, or given to, any person under this Act or the rules made thereunder shall be deemed to be duly served or given—

(a) if the notice is addressed to that person and is given or tendered to him; or

(b) where that person cannot be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member of his family; or

(c) if it is sent by registered post to that person at his last known place of residence or business.".

10. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) after serial number 16 and the entries relating thereto, the following shall be inserted, namely:—

"16 A.	Upholstered furniture supported on steel frames	do.	12";

(b) after serial number 25G and the entries relating thereto, the following shall be inserted, namely:—

"25 GG.	Hydrogenated oil, refined oil and margarene	do.	9".

11. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act,—

(a) for item 9, the following item shall be substituted, namely:—
"9. Fresh fruits.";

(b) after item 13, the following item shall be inserted, namely:—
"14. Bread.".

12. *Repeal and saving.*—(1) The Kerala General Sales Tax (Second Amendment) Ordinance, 1975 (12 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 27th day of October, 1975.

Government of Kerala
1976

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KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 2810-Leg (A) 2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaithra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,

K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1225/MC.

ACT 13 OF 1976

THE AGRICULTURAL INCOME-TAX (AMENDMENT) ACT, 1976

An Act further to amend the Agricultural Income-tax Act, 1950.

Preamble.—WHEREAS it is expedient further to amend the Agricultural Income-tax Act, 1950, for the purposes hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Agricultural Income-tax (Amendment) Act, 1976.

2. *Amendment of section 16.*—In section 16 of the Agricultural Income-tax Act, 1950 (XXII of 1950) (hereinafter referred to as the principal Act),—

(a) in sub-section (1),—

(i) for the words "two other members", the words "as many other members as they think fit" shall be substituted;

(ii) for the words "other two members", the words "other members" shall be substituted;

(b) for sub-sections (3) to (3E), the following sub-sections shall be substituted, namely:—

"(3) (a) Subject to the provisions of clause (b), the functions of the Appellate Tribunal may be performed—

(i) by a Bench consisting of the Chairman and any other member; or

(ii) by a Bench consisting of the Chairman and two other members; or

(iii) by a Bench consisting of two or more members other than the Chairman.

(b) The Chairman or any other member of the Appellate Tribunal nominated by him may, sitting singly, dispose of any case which pertains to an assessee whose total agricultural income as computed by the Agricultural Income-tax Officer in the case does not exceed fifteen thousand rupees.

(3A) If any case which comes up before a Bench consisting of a single member other than the Chairman, or a Bench consisting of more than one member, of which the Chairman is not a member, involves a question of law, the Bench may, in its discretion, reserve such case for decision by the Chairman or by a Bench to be constituted under sub-section (3B), of which the Chairman shall be a member.

(3B) The Bench or Benches of the Appellate Tribunal shall be constituted by the Chairman in accordance with the provisions of this Act and the rules made thereunder.

(3C) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and such point or points shall be heard—

(i) when the Chairman is not a member of that Bench, either by the Chairman or by the Chairman and any other member or members as the Chairman may direct; and

(ii) when the Chairman is a member of that Bench, by any other member or members to whom the case is referred by the Chairman, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(3D) Any member who has previously dealt with any case coming up before the Appellate Tribunal in any other capacity or is personally interested in any case coming up before the Appellate Tribunal, shall be disqualified to hear that case.

(3E) Where any case is heard by a Bench consisting of two members and the members are divided in their opinion on any point and the other member or members of the Tribunal are disqualified under sub-section (3D) to hear the case, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as an additional member of the Tribunal and the point shall be decided in accordance with the opinion of the majority of the members of the Tribunal who have heard the case including those who first heard it.

(3F) The additional member appointed under sub-section (3E) shall cease to hold office on the disposal of the case for which he was appointed.".

3. *Amendment of section* 35.—In section 35 of the principal Act, for the words "three years", wherever they occur, the words "five years" shall be substituted.

4. *Amendment of section* 64.—In section 64 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any notice required to be served on, or given to, any person under this Act or the rules made thereunder shall be deemed to be duly served or given—

(a) if the notice is addressed to that person and is given or tendered to him; or

(b) where that person cannot be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member of his family; or

(c) if it is sent by registered post to that person at his last known place of residence or business.".

5. *Substitution of new section for section* 66.—For section 66 of the principal Act, the following section shall be substituted, namely:—

"66. *Power to order production of accounts and powers of entry, inspection, etc.*—(1) An officer not below the rank of an Agricultural Income-tax Officer may, for the purposes of this Act, by notice, require any assessee or any other person who, in the opinion of such officer, is liable to pay tax under this Act—

(a) to produce or cause to be produced before him any accounts, registers, records or other documents; or

(b) to furnish or cause to be furnished any other information, which such officer considers to be relevant for the purpose of any proceedings under this Act and such assessee or other person shall comply with such requisition.

(2) Any officer not below the rank of an Agricultural Income-tax Officer may, at any reasonable time,—

(a) enter any land or any vessel or vehicle belonging to any assessee or any other person who, in the opinion of such officer, is liable to pay tax under this Act; and

(b) inspect any accounts, registers, records or other documents which such officer considers to be relevant for the purpose of any proceedings under this Act.

(3) If any officer not below the rank of an Agricultural Income-tax Officer has reason to believe that an assessee or any other person is trying to evade any tax under this Act, he may, for reasons to be recorded, enter and search any place where the assessee or such other person is keeping or is reasonably believed to be keeping any accounts, registers, records or other documents relating to his agricultural income:

Provided that no residential accommodation shall be entered into or searched.

Explanation.—For the purposes of this sub-section, "place" includes any godown, building, vessel, vehicle, box or receptacle.

(4) All searches under this section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(5) The officer making the inspection or search may seize such accounts, registers, records or other documents as he considers necessary and on such seizure shall grant the assessee or such other person a receipt of the things seized.

(6) The accounts, registers, records or other documents seized under sub-section (5) shall not be retained by the officer seizing them beyond a period of thirty days from the date of the seizure except with the permission of the next higher authority, unless they are required for any prosecution under this Act:

Provided that the next higher authority shall not give permission to retain such accounts, registers, records or other documents beyond a period of forty-five days from the date of the seizure.

(7) The powers conferred by sub-sections (3) and (5) shall include—

(a) the power to break open any box or receptacle or place or the door of any premises, in which any accounts, registers, records or other documents of the assessee or such other person are, or are reasonably believed to be, kept:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises fails or refuses to open the door on being called upon to do so;

(b) the power to seal any box or receptacle, godown or building, where any accounts, registers, records or other documents are, or are reasonably believed to be, kept, if the owner or any other person in occupation leaves the premises or refuses to open the box or receptacle, godown or building, or is not available, and then to break open such box, receptacle, godown or building on the authority of an authorisation in writing by the Board of Revenue.

(8) Without prejudice to the powers conferred by the foregoing provisions of this section, any agricultural income-tax authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.".

6. *Repeal and saving.*—(1) The Agricultural Income-tax (Amendment) Ordinance, 1975 (13 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 27th day of October, 1975.

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1976

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EXTRAORDINARY

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GOVERNMENT OF KERALA

Public Works (Transport B) Department

DECLARATION

No. 16415/TB2/76/PW. *Dated, Trivandrum, 18th March 1976.*

Whereas in exercise of the power conferred by clause (i) of Article 258 of the Constitution the President has, in his notification No. 2/4/63 Jdl. II dated 31-5-1963, entrusted the Government of Kerala, with their consent, the functions of the Central Government under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962), in relation to acquisition of land for the purpose of the Union in this State;

And whereas under sub-section (4) of Section 19 of the said Act the Government of Kerala have directed that in view of the urgency of the case, the provisions of section 5 of the Act shall not apply to the lands specified in the Schedule below;

And whereas the Government are satisfied that the said lands have to be acquired for a public purpose;

The Government of Kerala hereby declare under section 6 of the Act that the lands specified in the schedule below and measuring 0.0626 Hectares, be the same a little more or less, are needed for a public purpose, to wit for doubling rail track between Pudukad and Irinjalakuda and under section 7 of the Act direct the Special Tahsildar, (L.A.) Railways, Trichur to take order for the acquisition of the lands. Further, under sub-section (1) of section 19 of the Act the Government direct that the Collector may take possession of the lands on the expiry of fifteen days from the date of publication of the notice mentioned in sub-section (1) of Section 9 of the Act.

A plan of the land is kept in the office of the Special Tahsildar, L. A. Railways, Trichur and may be inspected at any time during office hours.

ഭരണഘടന 258-ാം വകുപ്പ് (1)-ാം ഖണ്ഡത്താൽ നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് രാഷ്ട്രപതി, യൂണിയന്റെ ആവശ്യത്തിനായി ഈ സംസ്ഥാനത്ത് ഭൂമി വിലയ്ക്കെടുക്കുന്നത് സംബന്ധിച്ചിടത്തോളം 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21-ാം ആക്റ്റ്) പ്രകാരം കേന്ദ്രഗവൺമെൻറിൻറ പ്രവൃത്തികൾ തന്റെ 31-5-1963-ാം തീയതിയിലെ 2/4/63. Jdl. II നമ്പർ പരസ്യപ്രകാരം കേരള ഗവൺമെൻറിനെ, ആ ഗവൺമെൻറിന്റെ സമ്മതത്തോടുകൂടി, ഭരമേൽപ്പിച്ചിരിക്കയാലും;

പ്രസ്തുത ആക്റ്റ് 19-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പുപ്രകാരം കേരള ഗവൺമെൻറ് പ്രസ്തുത സംഗതിയുടെ അടിയന്തിരസ്ഥിതി പരിഗണിച്ച ആക്റ്റ് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകൾ താഴെ പട്ടികയിൽ വിവരിച്ചിട്ടുള്ള ഭൂമിക്ക് ബാധകമല്ലെന്ന് നിർദ്ദേശിക്കയാലും;

പ്രസ്തുത ഭൂമി ഒരു പൊതുകാര്യത്തിനായി വിലയ്ക്കെടുക്കേണ്ടതാണെന്ന് ഗവൺമെൻറിനു ബോദ്ധ്യപ്പെട്ടിരിക്കുന്നതിനാലും;

കേരള ഗവൺമെൻറ് താഴെ കാണുന്ന പട്ടികയിൽ വിവരിച്ചിട്ടുള്ളതും 0.0626 ഹെക്ടർ വിസ്തീർണ്ണമുള്ളതുമായ ഭൂമി, അത് അത്രതന്നെയോ അതിൽ അൽപ്പം കുറവോ കൂടുതലോ ആയിരുന്നാലും വേണ്ടതില്ല, ഒരു പൊതുകാര്യത്തിന് അതായത് പുതുക്കാടിനും ഇരിങ്ങാലക്കുടക്കും ഇടക്ക് റെയിൽവേപ്പാത ഇരട്ടിപ്പിക്കുന്നതിന് ആവശ്യമാണെന്ന് ആക്ട് 6-ാം വകുപ്പുപ്രകാരം ഇതിനാൽ പ്രഖ്യാപിക്കുകയും, ആ ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനുള്ള ഉത്തരവു സ്വീകരിപ്പാൻ ആക്ട് 7-ാം വകുപ്പുപ്രകാരം തൃശ്ശൂർ റെയിൽവെ ലാൻറ് അക്വിസിഷൻ സ്പെഷ്യൽ തഹശിൽദാർ, എന്ന ആളോട് നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു. ആക്ട് 9-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പറഞ്ഞിരിക്കുന്ന നോട്ടീസ് പ്രസിദ്ധപ്പെടുത്തുന്ന തീയതി മുതൽ പതിനഞ്ചു ദിവസം കഴിഞ്ഞാൽ കളക്ടർക്ക് ആ ഭൂമി കൈവശപ്പെടുത്താവുന്നതാണെന്നുംകൂടി ആക്ട് 19-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരം ഗവൺമെൻറ് നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു.

സ്ഥലത്തിന്റെ പ്ലാൻ തൃശ്ശൂർ റെയിൽവേ ലാൻഡ് അക്വിസിഷൻ സ്പെഷ്യൽ തഹസിൽദാർ, എന്ന ആളുടെ ആഫീസിൽ സൂക്ഷിച്ചിട്ടുണ്ട്, ആഫീസ് സമയത്ത് എപ്പോഴെങ്കിലും അത് പരിശോധിക്കുകയും ചെയ്യാം.

SCHEDULE

District—Trichur.

Taluk.—Mukundapuram

Village.—Parappurkara

Block No. 67

(The extent given is approximate)

Description.—Wet.

Sl. No.	*Survey No.*		*Extent in hectares*
1.	101/2-5		0.0024
2.	101/4-6		0.0116
.	129/1-8		0.0486
		Total	0.0626

By order of the Governor,

N. R. AUGUSTINE,
Joint Secretary to Government.

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Government of Kerala
1976

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation A) Department

NOTIFICATION

No. 2808-Leg. (A) 2/76/Law. *Dated, Trivandrum, 22nd March, 1976/ 2nd Chaithra, 1898.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 22nd day of March, 1976.

By order of the Governor,
K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1976

33/1223/MC.

ACT 11 OF 1976

THE KERALA GENERAL SALES TAX (AMENDMENT) ACT, 1976

An Act further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala General Sales Tax Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala General Sales Tax (Amendment) Act, 1976.

2. *Amendment of section* 4.—In section 4 of the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act),—

(a) in sub-section (1),—

(i) for the words "two other members", the words "as many other members as they think fit" shall be substituted;

(ii) for the words "other two members", the words "other members" shall be substituted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) (a) Subject to the provisions of clause (b), the functions of the Appellate Tribunal may be performed—

(i) by a Bench consisting of the Chairman and any other member; or

(ii) by a Bench consisting of the Chairman and two other members; or

(iii) by a Bench consisting of two or more members other than the Chairman.

(b) The Chairman or any other member of the Appellate Tribunal nominated by him may, sitting singly, dispose of any case which pertains to an assessee whose total tax as assessed by the assessing authority in the case does not exceed five hundred rupees.

(3A) If any case which comes up before a Bench consisting of a single member other than the Chairman, or a Bench consisting of more than one member, of which the Chairman is not a member, involves a question of law, the Bench may, in its discretion, reserve such case for decision by the Chairman or by a Bench to be constituted under sub-section (3B), of which the Chairman shall be a member.

(3B) The Bench or Benches of the Appellate Tribunal shall be constituted by the Chairman in accordance with the provisions of this Act and the rules made thereunder.

(3C) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and such point or points shall be heard—

(i) when the Chairman is not a member of that Bench, either by the Chairman or by the Chairman and any other member or members as the Chairman may direct; and

(ii) when the Chairman is a member of that Bench, by any other member or members to whom the case is referred by the Chairman,

and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(3D) Any member who has previously dealt with any case coming up before the Appellate Tribunal in any other capacity or is personally interested in any case coming up before the Appellate Tribunal shall be disqualified to hear that case.

(3E) Where any case is heard by a Bench consisting of two members and the members are divided in their opinion on any point and the other member or members of the Tribunal are disqualified under sub-section (3D) to hear the case, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as an additional member of the Tribunal, and the point shall be decided in accordance with the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(3F) The additional member appointed under sub-section (3E) shall cease to hold office on the disposal of the case for which he was appointed.".

3. *Substitution of new section for section 22.*—For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. *Collection of tax by dealers.*—(1) A registered dealer may, subject to the provisions of sub-section (2), collect the tax payable by him on the sale of any goods from the person to whom he sells the goods.

(2) No registered dealer shall collect any sum purporting to be by way of tax—

(a) on the sale of any goods—

(i) in respect of which he is not liable to pay tax; or

(ii) at a rate exceeding the rate at which he is liable to pay tax; or

(b) in respect of the purchase of any goods, whether or not he is liable to pay tax on such purchase.

(3) No person other than a registered dealer shall collect any sum by way of, or purporting to be by way of, tax under this Act:

Provided that the Central Government, the Government of Kerala, the Government of any other State in India and a local authority shall, in respect of any sale of goods effected by them, be entitled to collect, by way of tax, the amount which a registered dealer effecting such sale would have been entitled to collect by way of tax.".

4. *Substitution of new section for section 28.*—For section 28 of the principal Act, the following section shall be substituted, namely:—

"28. *Power to order production of accounts and powers of entry, inspection, etc.*—(1) An officer not below the rank of an assessing authority may, for the purposes of this Act, by notice, require any dealer—

(a) to produce or cause to be produced before him any accounts, registers, records or other documents or

(b) to furnish or cause to be furnished any other information, relating to his business, and such dealer shall comply with such requisition

(2) Any officer not below the rank of an assessing authority may, at any reasonable time,—

(a) enter any place of business or any vessel or vehicle of any dealer; and

(b) inspect any accounts, registers, records or other document relating to his business and the goods in his possession.

(3) If any officer not below the rank of an assessing authority has reason to believe that a dealer is trying to evade any tax under this Act, he may, for reasons to be recorded, enter and search—

(a) the place of business of the dealer; or

(b) any other place where the dealer is keeping or is reasonably believed to be keeping any goods, accounts, registers, records or other documents relating to his business:

Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into or searched except on the authority of a search warrant issued by a Magistrate of the first class having jurisdiction over the area in which the residential accommodation is situate.

Explanation.—For the purposes of clause (b), "place" includes any godown, building, vessel, vehicle, box or receptacle.

(4) All searches under this section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(5) The officer making the inspection or search may seize such accounts, registers, records or other documents as he considers necessary and on such seizure shall grant the dealer a receipt of the things seized.

(6) The accounts, registers, records or other documents seized under sub-section (5) shall not be retained by the officer seizing them beyond a period of thirty days from the date of the seizure except with the permission of the next higher authority, unless they are required for any prosecution under this Act:

Provided that the next higher authority shall not give permission to retain such accounts, registers, records or other documents beyond a period of forty-five days from the date of the seizure.

(7) The power conferred by sub-sections (3) and (5) shall include—

(a) the power to break open any box or receptacle or place or the door of any premises, in which any goods or any accounts, registers, records or other documents of the dealer are, or are reasonably believed to be, kept:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises fails or refuses to open the door on being called upon to do so;

(b) the power to seal any box or receptacle, godown or building, where any goods or any accounts, registers, records or other documents are, or are reasonably believed to be, kept, if the owner or any other person in occupation leaves the premises or refuses to open the box or receptacle, godown or building, or is not available, and then to break open such box, receptacle, godown or building on the authority of a warrant issued by a Magistrate of the first class having jurisdiction over the area in which the box or receptacle or godown or building is kept or situate.

(8) If any officer, while inspecting any place of business under sub-section (2) or searching any place under sub-section (3), finds therein any goods not accounted for by the dealer in his accounts and other records required under section 27 to be kept and maintained by him, such officer may, after giving the dealer a reasonable opportunity of being heard, by order, direct the payment of a penalty, not exceeding fifty percent of the value of the goods not accounted for, as may be fixed by such officer.

(9) A Magistrate of the first class may, on application from an officer referred to in sub-section (3), and on being satisfied that any residential accommodation within his jurisdiction has to be entered into and searched under that sub-section, issue a search warrant authorising such officer to enter and search such residential accommodation or, on being satisfied that any

box, receptacle, godown or building within his jurisdiction has to be broken open under clause (b) of sub-section (7), issue a warrant authorising such officer to break open such box, receptacle, godown or building.".

5. *Amendment of section 46.*—In section 46 of the principal Act, in sub-section (1), clause (b) shall be omitted.

6. *Insertion of new section 46A.*—After section 46 of the principal Act, the following section shall be inserted, namely:—

"46A. *Penalty for illegal collection of tax, etc.*—(1) Any person who collects any sum by way of tax or purporting to be by way of tax in contravention of sub-section (2) or sub-section (3) of section 22 shall, on conviction before a Magistrate not below the rank of a Magistrate of the first class, be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, and with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees.

(2) Where a person is prosecuted for an offence under sub-section (1), the burden of proving that the act constituting the offence was done under a mistake of fact shall be on him.".

7. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) after serial number 25N and the entries relating thereto, the following shall be inserted, namely:—

"25NN.	Hosiery goods	do.	5";

(b) before serial number 58 and the entries relating thereto, the following shall be inserted, namely:—

"57H.	Liquified petroleum gas	At the point of first sale in the State by a dealer who is liable to tax under section 5	15".

8. *Amendment of Second Schedule.*—In the Second Schedule to the principal Act, in column (4), for the figures "2" and "3", wherever they occur, the figure "4" shall be substituted.

9. *Repeal and saving.*—(1) The Kerala General Sales Tax (Amendment) Ordinance, 1975 (6 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 30th August, 1975.